

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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E*TRADE FINANCIAL CORPORATION and	:	
E*TRADE SECURITIES LLC,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	No. 08 CV 2993 (RJH)
	:	
MARCUS J. HERNANDEZ,	:	
SEAN J. GAFFEY, and	:	
BANC OF AMERICA	:	
INVESTMENT SERVICES, INC.	:	
	:	
Defendants.	:	
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STIPULATION OF DISCONTINUANCE WITH PREJUDICE

WHEREAS Plaintiffs E*TRADE Financial Corporation and E*TRADE Securities LLC (collectively "E*TRADE") and defendants Marcus J. Hernandez, Sean J. Gaffey, and Banc of America Investment Services, Inc. (collectively "Defendants") have fully settled their claims and counterclaims,

WHEREAS in the Order Granting Preliminary Injunction filed April 16, 2008 (the "Order"), the Court ordered that E*TRADE post security of \$100,000; and

WHEREAS on or about April 22, 2008, E*TRADE caused to be posted with the Clerk of the Court security in the form of a surety bond in the amount of \$100,000; and

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys for the parties, that the above-captioned action is hereby voluntarily dismissed with prejudice and without costs to any party as against any other.

IT IS FURTHER STIPULATED AND AGREED by and between the undersigned attorneys for the parties, that the Order be vacated, that the Defendants are hereby released from the Order's terms and injunctions, that E*TRADE is hereby released from the Order's bond requirement, and E*TRADE's \$100,000 surety bond, together with any interest due thereupon, is to be refunded to E*TRADE in full at the earliest possible date.

IT IS FURTHER STIPULATED AND AGREED that the submissions of the parties dated May 5, 2008 are marked and filed as "sealed" documents.

/s/ Douglas P. Lobel
COOLEY GODWARD KRONISH LLP
Douglas P. Lobel (DL-3894)
11951 Freedom Drive
Reston, Virginia 20190-5655
Telephone: (703) 456-8000
Facsimile: (703) 456-8100
*Counsel for Plaintiffs E*TRADE Financial Corporation and E*TRADE Securities LLC*

/s/ John O. Lukanski
WOLFF & SAMSON PC
John O. Lukanski (JL2846)
The Offices at Crystal Lake
One Boland Drive
West Orange, New Jersey 07052
Telephone: (973) 530-2073
Facsimile: (973) 530-2273
Counsel for Defendant Banc of America Investment Services, Inc.

/s/ Thomas J. Momjian
COSS & MOMJIAN, LLP
Thomas J. Momjian, Esq.
111 Presidential Boulevard, Suite 233
Bala Cynwyd, Pennsylvania 19004
Telephone (610) 667-6800
Facsimile: (610) 667-6620
Counsel for Defendants Marcus J. Hernandez and Sean J. Gaffey

SO ORDERED.

United States District Judge Richard J. Holwell

Dated: _____